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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Application of : **HAYARDENY et al.**

Serial No. : 10/673,733 : Group Art Unit: 2161

Filed : September 29, 2003 : Examiner: Paul Kim

For : STORAGE DISASTER RECOVERY USING A PREDICTED  
SUPERSET OF UNHARDENED PRIMARY DATA

Honorable Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

DECLARATION UNDER 37 CFR 1.131

Sir:

We, the undersigned, Amiram Hayardeny, Martin Tross and Aviad Zlotnick, hereby declare as follows:

1) We are the Applicants in the patent application identified above, and are the inventors of the subject matter described and claimed in claims 1-60 therein.

2) Prior to August 29, 2003, we conceived our invention, as described and claimed in the subject application, in Israel, a WTO country. Prior conception of the invention is evidenced by a draft of the patent application sent to us on August 25, 2000, by Dr. Daniel Kligler, of Sanford T. Colb & Co., who was retained by

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IBM as outside counsel for the purpose of preparing the present patent application. A copy of the draft, with Dr. Kligler's cover letter, is attached hereto as Exhibit A. We note that the independent claims in this draft are nearly identical to those in the application as filed.

3) Shortly after receiving the draft, we reviewed it and gave Dr. Kligler our comments. Dr. Kligler then sent us a revised draft on September 3, 2003, which we approved immediately. Dr. Kligler sent the final draft for filing to Suzanne Erez in the IP Department of the IBM Haifa Research Laboratory on September 4, 2003. A copy of Dr. Kligler's cover letter is attached hereto as Exhibit B.

4) Ms. Erez immediately sent the application to the IBM Thomas Watson Research Center for filing by an IBM attorney in the USPTO. Filing was deferred, however, because the heading of the formal drawings did not comply with IBM standard practice. Ms. Erez conveyed a request to Dr. Kligler to correct the drawings on September 14, 2003. Dr. Kligler's draftsman, Ronen Harel, sent the corrected drawings to Ms. Erez on September 15, 2003. A copy of Mr. Harel's cover letter is attached hereto as Exhibit C.

5) Ms. Erez passed the corrected drawings on to the IBM Thomas Watson Research Center, and the application was then filed on September 29, 2003.

We hereby declare that all statements made herein of

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our knowledge are true and that all statements made on information and conjecture are thought to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application of any patent issued thereon.

\_\_\_\_\_  
Amiram Hayardeny, Citizen of Israel

\_\_\_\_\_  
Date

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Jan 3 2007


  
\_\_\_\_\_  
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